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To: Microsoft ATR
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Subject: Microsoft Settlement

To whom it may concern:

The proposed Microsoft settlement is poorly thought out result of years of litigation by the US government, that will do little if anything to modify the company's past flagrant behavior in violation of federal antitrust regulations.

The purpose of antitrust remedies is to allow competition to flourish in a marketplace. Consider three components that comprise significant barriers to effective competition in the US operating system marketplace, which I will discuss below:

1. Compatible file formats.
2. Application availability/compatibility.
3. Network level interoperability.

Compatible file formats

Due to the dual lock Microsoft has on the market for both the operating system and office software, their file formats are used as standards for interchange of data. This is both internal to a company, and for interchange between companies.

Even if a company is willing to change its internal file formats (itself a major expense), it must still be able to communicate and exchange data with other companies. This is a severe lock-in which produces very strong resistance to change.

If Microsoft was required to publish complete and correct file formats for its software products, it would contribute to a significant lowering of the barrier to competition (but not sufficient of itself, see below). This matter is not addressed effectively by anything in the proposed settlement.

Application level compatibility

Consider a company that had sufficient skill available to develop an operating system in competition with Microsoft, perhaps based off of a base set of source code that is commonly available. It develops a set

of user interfaces that, while not identical to the Microsoft equivalents, is close enough to shorten the learning curve for new users.

That in itself is a significant piece of work. However, it is not sufficient because most of the use of an operating system is to run applications that allow users to get their daily work done. Providing a set of run-alike applications is an unreasonable burden on a company attempting to compete on the operating system level.

If the company had enough information to ensure that applications written for another operating system would run on the new operating system, then this would allow users to contemplate switching while still retaining the applications they are familiar with.

Application level interoperability requires compatibility in the application programming interfaces (APIs) provided to application programmers by the operating system. While the proposed settlement does provide for release of some APIs, the wording of the settlement and loopholes provided make it insufficient to ensure complete, correct, and timely publishing of APIs.

Network level interoperability

Few companies will carry out a major migration project at the level of replacing the operating system on every computer used in the company. This makes it very important that a new operating system be able to communicate effectively with any incumbent operating system, on matters such as identification, authentication, and data transfer.

The proposed settlement does require that network protocols be release to allow system interoperability, but with the large loophole that security or copy protection be excluded. Correct security implementations do not depend upon details of the algorithms involved (consider past and upcoming federal encryption standards). Instead security is maintained using one of a number of varieties of secret data, which are individual to a particular system or network, and not provided by Microsoft.

The language of the proposal could allow Microsoft to hold back important parts of their network protocols under the security provision, denying other operating systems access to identification and/or authentication by the protocols in use on a network primarily populated by systems (especially servers) running Microsoft operating systems and network protocols.

The settlement should provide severe restrictions on what type of protocol information Microsoft may not release, and that should not be anything as general as "security information".

In summary, the proposed settlement will do little to restrict Microsoft's behavior, or to encourage effective competition in the US operating system marketplace. Microsoft has repeatedly demonstrated that it will do anything necessary to dominate its marketplace, including violation of US law. If the settlement is not effective, then the company will have little reason to comply with US law in the future, as it will appear that the cost of violating the law does not exceed the benefits of maintaining and extending their monopoly.

Sincerely,
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